

# COMPCONTROL

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CompControl

The Official KMIT Member Newsletter

## What You Need to Know About 'MMSEA' and Medicare Mandatory Reporting Requirements

Effective January 1, 2010, Medicare will for the first time require insurers and self-insureds to report all Medicare Beneficiary settlements, awards and judgments that pertain to liability, workers' compensation and no-fault claims to the **Center for Medicare and Medicaid Services (CMS)**. With memos from CMS starting in 2001, there has been a building process to obtain reimbursement of monies paid by Medicare and prevent additional monies from being spent by Medicare for medical treatment that falls to another primary payer.

- The Medicare and Medicaid State Children's Health Insurance Program Extension Act of 2007 (**MMSEA**) was signed into law in December of 2007. The legislation impacts the handling of workers' compensation, liability, auto no-fault and self-insureds claims, defined by CMS as Non-Group Health Plans (NGHP). The data must be reported each time a settlement, judgment, award or payment is made to a claimant who is entitled to receive Medicare benefits. **With the passage of this legislation, Congress authorized and required the CMS to protect the Medicare system from bearing current or future medical expenses**



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Vice President, Risk Management  
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Marla Dipman & Gene Miller  
Claims Adjusters  
Insurance Management Associates

Deanna Myers  
Design Editor  
Office Administrator/Agent

CompControl is a publication of the League of Kansas Municipalities and the Kansas Municipal Insurance Trust for the purpose of educating and informing cities about loss control methods and risk management. If you have any questions concerning KMIT workers' compensation or risk management that you would like to see answered in this newsletter, please direct those inquiries to:

Kansas Municipal Insurance Trust  
300 SW 8th Avenue  
Topeka, KS 66603  
Phone: (785) 354-9565  
Fax: (785) 354-4186  
[dmyers@lkm.org](mailto:dmyers@lkm.org)

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## Letter from the Pool Administrator

**Dear KMIT Members and Others,**

It's SUMMERTIME!...if last weekend's 95+ days are any indication. Do you remember how much you liked summer as a kid? I am one who liked it better then than now. But, don't you STILL feel like it's SUMMER the day school lets out? And, don't you still feel somehow like a kid again in summer...even if, as they are for me, the sun and heat are not quite as welcome as they once were? Summer is for kids. But also for grownups who remember how wonderful it was to be a kid.

Summers are also a time in which a disproportionately large number of work accidents occur. The higher level of activity; the pressing urge to keep up, to take advantage of good weather, etc., often leads to making haste and corner-cutting, and that often leads to people getting hurt. Let's be careful out there! NOTHING is worth having an injured employee.

And, **PLEASE thoroughly train and adequately supervise your summer help.** Most cities must and do utilize a number of young people for a variety of 'summer' tasks (lifeguarding, mowing and weed eating, curb painting, etc.). Young people need guidance—they don't do this for a living. Young people are a tremendous resource and asset for cities. And, they are precious to their parents. Take care of them. You owe them total security and absolute safety.

Your KMIT Board of Trustees last met in Osage City in April. The next meeting of the Board is in Neodesha, in late June. The Board will also meet in Arkansas City in August, following the **KMIT ANNUAL MEETING** (during the LKM Annual Conference), in Topeka, in early October, and in Wichita, in December.

Have a GREAT summer.

Until next time...



Pool Administrator

# Practice Safety Away From Work, Too!

*The following is an actual Monday-morning e-mail exchange between Arkansas City's Fire Chief Randy Leach and City Manager Steve Archer...Who says management-types don't have a sense of humor?*

Steve,

According to the new policy book, an employee injured off-the-job that seeks medical attention, is to report this to the department head. Since I'm the department head -- and I had the accident -- I guess I will report it to you. Here is the story:

I was cooking chicken for 100 people for (name withheld to protect the innocent) a wedding reception on Saturday afternoon. Choked on a chocolate Hershey's Kiss, which will now be referred to as the 'Kiss of Death!'

As the Kiss of Death closed off my wind pipe and sucked all the oxygen from my brain, the rest of my body decided I should lie down. I was not informed of the process, and this is where the body seems to take command. Evidently, there was not enough room in the kitchen for me to lie down, so my face was used to move the oak table out of the way, which in turn parted my forehead. As my body continued its path to the floor, various parts of my body moved other items that were determined to be in the way. I was lucky that my nose apparently sticks out just a little bit farther than the rest of my face, which helped soften the contact with the floor. As my nose continued to crush into the floor, the Kiss of Death either dissolved, or shot out of my throat across the room.

Apparently, the oxygen level increased back into my brain, and I was able to finish the chicken that was on the grill outside -- before going to the hospital emergency room for stitches. A Physician's Assistant sewed me up, and sent me on my way with no restrictions, other than I am to return to have the stitches removed in seven to nine days.



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## ...Mandatory Reporting Requirements continued from page 1



considered to be the obligation of an insurance company, self-insured organization, or other entity. Section 111 of the MMSEA adds new mandatory reporting requirements for group health plan arrangements and for liability insurance, including self-insurance, no-fault insurance and workers' compensation.

- The new law will go into effect this year, and will require an applicable plan to determine whether a claimant is entitled to benefits under the Medicare program on any basis, and if the claimant is determined to be so entitled, submit the specific information, with respect to the claimant, to CMS.

CMS was given responsibility for developing the details of what, when and how the Mandatory Insurer Reporting would be implemented.

The reporting requirements apply to all group health plans, all liability insurers, including self-insureds, all no-fault insurers and **all workers' compensation insurers, including self-insured entities**. Mandatory reporting is required whenever a **Responsible Reporting Entity (RRE)** determines "a claimant (including an individual whose claim is unresolved) is entitled to Medicare benefits."

- Reporting is triggered without regard to whether Medicare benefits have actually been paid, and the duty to determine whether a claimant is "entitled to Medicare benefits" fall solely upon the RRE.
- CMS has identified over 100 data fields of specific information RREs will be required to gather and report to CMS under this law. Mandatory Insurer Reporting will be electronic only—no paper will be permitted.
- RREs will be required to register, and submit reports on-line by logging into a secure website which is currently under development. There will be a designated testing period from **July 1, 2009 to December 31, 2009** and actual reporting for all RREs is scheduled to begin **October 1, 2009**.
- Failure by an RRE to comply with MMSEA could result in penalties. CMS has established that **failure to report appropriate claims could result in \$1,000 per day per claim fine** plus "any other penalties prescribed by law and in addition to any Medicare secondary payer claim."
- **Please note: It is our opinion that individual KMIT cities will not have to register or report the required data to CMS. As a self-funded pool, KMIT will be registering as an RRE, and report claimant information to CMS. IMA, KMIT's claim administrator and reporting agent, will submit the appropriate claim and payment data to CMS on a quarterly basis.**



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# SAFE CITIES as of May 31, 2009

If you would like assistance returning an injured employee to work, or need ideas for modified duty, please contact Marla or Gene at, 1-800-288-6732 or [kmitclaims@imacorp.com](mailto:kmitclaims@imacorp.com).

Abilene	Bonner Springs	Edwardsville	Great Bend	La Cygne	Ogden	Sharon
Admire	Brewster	El Dorado	Greeley	Larned	Osage City	Spring
Allen	Centralia	Elkhart	Grinnell	League	Osawatomie	Spearville
Altamont	Chautauqua	Ellsworth	Halstead	Lecompton	Oskaloosa	Spring Hill
Andale	Cheney	Esbon	Hamilton	Lenora	Oswego	Stafford
Andover	Cherryvale	Eudora	Hartford	Leoti	Ozawkie	Stockton
Atchison	Clay Center	Florence	Hays	Lincoln Center	Palco	St. Francis
Atlanta	Coffeyville	Ford	Haysville	Lucas	Paola	Tampa
Baldwin City	Columbus	Fowler	Hiawatha	Marysville	Park City	Tescott
Basehor	Concordia	Frankfort	Hill City	McFarland	Parsons	Tipton
Baxter Springs	Conway Springs	Fredonia	Hoisington	Medicine Lodge	Peabody	Tonganoxie
Belleville	Council Grove	Galena	Hillsboro	Melvern	Princeton	Treece
Bennington	Cullison	Girard	Horton	Minneapolis	Ramona	Ulysses
Beverly	Damar	Glasco	Independence	Moline	Ransom	Valley Center
Bird City	De Soto	Goodland	Jetmore	Montezuma	Reading	WaKeeney
Bonner Springs	Douglass	Glen Elder	Johnson City	Mound City	Roeland Park	Wakefield
Blue Mound	Eastborough	Grainfield	Kingman	Neosho Rapids	Rose Hill	Walton
Blue Rapids	Edgerton	Grandview Plaza	Kinsley	Oberlin	Sedan	Wamego

KMIT cities are considered Safe Cities if no lost time claims have been reported during the calendar year, beginning January 1, 2009.

## ...Be Safe At Home

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My wife and daughter cleaned up the kitchen -- or what was referred to as the homicide scene. They also helped me get all the food to the reception and we served about 125 people without a hitch. Anyway, I have about eight stitches in my forehead, a broken nose that has been fixed, and I am not quite as good looking with my two black eyes.

-Randy

**Randy,**

***In the future, if you are going to cook chicken and eat Hershey's Kisses, I recommend that you wear head and face protection. I believe your bunker gear would work fine. This would also provide protection from fire flare ups due to the chicken fat. Remember, you can never be too careful!!***

**Steve**



# NEWS & NOTES

## State WC Forms Go Interactive

The Kansas Division of Workers' Compensation has replaced the standard online PDF forms for elections of coverage with interactive PDF versions (go to [http://www.dol.ks.gov/wc/html/wcfrmpub\\_ALL.html#elections](http://www.dol.ks.gov/wc/html/wcfrmpub_ALL.html#elections)). These interactive forms are a big advantage over the previous print-and-fill-out versions, because not only can you fill them out online on your computer, you can save the form to your hard drive or other storage media with all the data you entered intact for future record retrieval. You can also save the blank forms on your computer, eliminating going back to the division's website each time you need one of the forms.

You will still need to print the completed form and mail it in, because the division has not approved receiving them by e-mail. This is due to security precautions for transmission of social security numbers, the need for a hand-produced signature (digital IDs have not yet been adopted), and privacy issues in general. Faxing is still permitted. The forms must be fully completed. Incomplete forms will be returned for completion and will not be considered to be filed. If you have any questions, contact Richard Thomas at 785-296-2996 or [richard.thomas@dol.ks.gov](mailto:richard.thomas@dol.ks.gov).

[Excerpted from the June 8 *Kansas Agent* (KAIA monthly online newsletter). KMIT is a member of the KAIA.]

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## Common Sense Summertime Safety Suggestions

1. Drink LOTS of water or 'replenishing' drink (such as *Gatorade*). Soda pop is not a good 'hydrator'.
2. Wear light-colored (white is best) shirts, and sunscreen, and wear a hat (preferably one that 'breathes').
3. Take frequent breaks out of the sun. Find a breeze.
4. *TRAIN, TRAIN, TRAIN* summer help.
5. *SUPERVISE, SUPERVISE, SUPERVISE* summer help.

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## KMIT Q&A



**Q:** Do KMIT cities have to do anything regarding work comp claims, in terms of compliance with the new reporting requirements of the Medicare and Medicaid State Children's Health Insurance Program Extension Act of 2007 (MMSEA)

**A: NO.** At least not at this time. IMA (representing KMIT, as its claims manager) will handle all work comp reporting needs for all KMIT cities.

## ...MMSEA Requirements

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### What is the Medicare Secondary Payer Act?

The Medicare Secondary Payer Act is a federal law enacted in 1980 as part of the Omnibus Reconciliation Act. Its primary purpose is to ensure that Medicare does not pay for certain health care services that health insurance or other insurance plans cover, including accident & health, automobile no-fault, general liability and workers' compensation. Although the law was enacted in 1980, it has not been enforced for general liability or automobile no-fault up to this point. However, a new act passed in 2007 -- the Medicare, Medicaid and SCHIP Extension Act (MMSEA) of 2007 -- will be used to enforce the Medicare Secondary Payer Act for general liability and automobile no-fault.

### How do we protect Medicare's interests in settlements involving claimants who are eligible for Medicare benefits?

Before settling a file with a claimant, the RRE or agent will determine if the claimant is eligible for Medicare benefits. With any Medicare beneficiaries, RREs will confirm whether or not

there is an outstanding Medicare lien to satisfy within the settlement and settle such liens before paying the claimant or provide for payment of the lien within the release language. If future medical care is needed related to the loss being settled for a Medicare beneficiary, then money should be set aside for such future medical expenses in the form of a Medicare Set Aside as part of the settlement.

**How often will mandatory reporting be required?** The frequency of the required reporting varies depending on whether the payment issued is a single payment, or one issued as part of an ongoing obligation. **WC claims can be excluded if they are medical only, lost time fewer than 7 days, payments directly to providers, and less than \$600 total paid.**

**IMPORTANT**—Here is the current timeline for the MMSEA reporting:

#### **May 1, 2009 – September 30, 2009**

*Electronic registration via the secure website being developed by CMS. Each Responsible Reporting Entity (RRE) will need to register. If an agent will be doing the reporting, the RRE will need to register the agent.*

#### **July 1, 2009 – December 31, 2009**

*Testing period.*

#### **October 1, 2009 – December 31, 2009**

*Submission of first reports to CMS.*

#### **January 1, 2010**

*All RREs will be submitting reports*

#### **CMS Website:**

[http://www.cms.hhs.gov/MandatoryInsRep/04\\_Whats\\_New.asp](http://www.cms.hhs.gov/MandatoryInsRep/04_Whats_New.asp)



Please be advised that this communication is an educational and informational resource only. The views and statements expressed herein are not to be construed as legal advice from the authors or IMA and such communication is not protected under the attorney client privilege. Recipients should seek specific legal advice from competent legal counsel of your choice.

## KMIT Calendar

### June

26 KMIT Board of Trustees  
Meeting, *Neodesha*

### August

21 KMIT Board of Trustees  
Meeting, *Arkansas City*

### October

12 KMIT Annual  
Meeting, *Topeka*

## KMIT Balance Sheet as of April 30, 2009

### Combined Assets

Cash In Bank	\$2,302,729
Investments	8,611,808
Other Assets	<u>586,915</u>
Total Assets	\$11,501,452

### Combined Liabilities & Equity

Accrued Expenses Outstanding	\$4,520,064
Reserved for Losses	2,256,045
Incurred But Not Reported (IBNR)	2,887,505
Other (IBNR) Adjustments	(221,606)
Total Liabilities	<u>9,442,008</u>
KMIT Statutory Fund Balance	<u>2,059,444</u>
<b>Total Liabilities and Equity</b>	\$11,501,452

## Kansas Municipal Insurance Trust

300 SW 8th Avenue  
Topeka, KS 66603

